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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/942,504	08/29/2001	Shean-Guang Chang	BEAS-01063US1	9220
23910	7590	07/27/2005	EXAMINER	
FLIESLER MEYER, LLP FOUR EMBARCADERO CENTER SUITE 400 SAN FRANCISCO, CA 94111			SHINGLES, KRISTIE D	
			ART UNIT	PAPER NUMBER
			2141	

DATE MAILED: 07/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/942,504

Applicant(s)

CHANG ET AL.

Examiner

Kristie Shingles

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

PD

DETAILED ACTION

Response to Amendment

*Applicant has not amended any claims.
Claims 1-24 are pending.*

Drawings

1. The proposed drawing corrections filed 5/12/2005 have been accepted by the Examiner. The corrections to the drawings will not be held in abeyance.

Response to Arguments

2. Applicant's arguments, see Remarks pages 10-11, filed 5/12/2005, with respect to the rejection of claims 1-24 under 35 U.S.C. 102(e) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground of rejection is made in view of *Baum et al* (USPN 6,904,054).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Baum et al* (USPN 6,850,495)—hereafter referred to as, *Baum et al '495* in view of *Baum et al* (USPN 6,904,054)—hereafter referred to as, *Baum et al '054*.

a. **Per claim 1**, *Baum et al '054* teach the system for providing two qualities of service from a single data stream, comprising: a processor programmed to direct the data stream for each user according to that user's quality of service choice (**col.8 lines 19-59, col.9 lines 2-32, col.10 lines 1-33, col.11 lines 24-44, col.12 lines 5-15, col.16 lines 35-47, col.24 lines 56-67**); multicasting apparatus for receiving the data stream from the processor and multicasting the data stream to each user for which the first quality of service choice is stored in said storage space (**col.12 lines 16-33, col.25 lines 1-16, col.26 line 1-col.27 line 12**); and a point-to-point device for receiving the data stream from the processor and ensuring that each user for which the second quality of service is stored in said storage space receives the data stream (**col.17 lines 25-47, col.18 lines 33-50, col.21 lines 13-30, col.23 lines 15-45, col.25 lines 24-67**).

Yet *Baum et al '054* fail to explicitly teach a storage space for storing at least one of a first quality of service choice and a second quality of service choice for each of a plurality of users. However, *Baum et al '495* disclose a lookup table that stores context information pertaining to each customer indicating each customer's specific quality of service profile (**Figures 29 & 30, col.19 line 25-col.20 line 21 and col.23 lines 25-60**).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of *Baum et al '054* and *Baum et al '495* for the purpose of providing a storage space for maintaining the type quality of service specific to each

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user; because maintenance of the user's particular quality of service is critical in effectively providing the selected quality of service to the user.

b. **Claims 8, 15 and 21-24** contain limitations that are substantially equivalent to claim 1 and are therefore rejected under the same basis.

c. **Per claim 2, *Baum et al '495*** teach the system according to claim 1, further comprising a listener adapted to listen for information sent in the data stream to one of the users of the system (**col.8 line 64-col.9 line 6, col.12 lines 23-53, col.13 line 66-col.14 line 45, col.20 lines 25-40, col.22 line 30-col.23 line 20, col.25 line 64-col.26 line 14 and col.28 lines 40-51**).

d. **Claims 10 and 17** are substantially similar to claim 2 and are therefore rejected under the same basis.

e. **Per claim 3, *Baum et al '054*** teach the system according to claim 1, further comprising a single API for providing instructions to the processor for both qualities of service (**col.12 lines 5-15, col.18 lines 17-33, col.19 line 4-col.20 line 30 and col.23 lines 15-45**).

f. **Per claim 4, *Baum et al '054*** teach the system according to claim 1, further comprising a thread of execution for each user selecting the multicast quality of service, the thread of execution listening on the user's behalf for a message on the multicast stream then delivering the message to the user (**col.26 line 17-col.27 line 12**).

g. **Per claim 5, *Baum et al '054*** teach the system according to claim 1, further comprising a queue for each listener, allowing a user to receive messages for both qualities of service (**col.11 line 57-col.12 line 15, col.19 line 4-col.20 line 20 and col.32 lines 15-23; *Baum et al '495*: col.11 line 58-col.12 line 7, col.19 line 56-col.20 line 21, col.25 line 43-col.26 line 16 and col.27 line 35-col.28 line 34**).

h. **Claims 11 and 18** are substantially similar to claim 5 and are therefore rejected under the same basis.

i. **Per claim 6, *Baum et al '495*** teach the system according to claim 1, wherein said storage space may store separate choices for each user for multiple data streams (**Figures 29 & 30, col.12 lines 15-53, col.18 line 35-col.19 line 10, col.19 line 25-col.20 line 21 and col.23 lines 25-60**).

j. **Per claim 7, *Baum et al '495*** teach the system according to claim 1, further comprising a filtering device allowing a user to filter out certain messages in the data stream (**col.11 line 65-col.12 line 7, col.22 lines 10-64, col.23 lines 25-60, col.25 line 10-col.26 line 16 and col.26 line 56-col.27 line 42; *Baum et al '054*: col.20 lines 21-30**).

k. **Claims 9, 14 and 16** are substantially similar to claim 7 and are therefore rejected under the same basis.

l. **Per claim 12, *Baum et al '495*** teach the system according to claim 8, further comprising the step of tagging each message with a sequence number so that a user can tell if a message has been missed (**col.2 lines 25-45, col.3 line 66-col.4 line 16 and col.5 line 5-col.6 line 9; *Baum et al '054*: col.19 line 63-col.20 line 3 and col.22 lines 25-38**).

m. **Claim 19** is substantially similar to claim 12 and is therefore rejected under the same basis.

n. **Per claim 13, *Baum et al '495*** teach the system according to claim 8, further comprising the step of tagging each message so that a user can tell the data stream from which the message was received (**col.17 lines 20-62, col.19 line 16-col.20 line 21 and col.23 line 25-col.24 line 12**).

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o. **Claim 20** is substantially similar to claim 13 and is therefore rejected under the same basis.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: *McCloghrie et al* (USPN 6,286,052), *Jorgensen* (USPN 6,862,622), *Ryu et al* (USPN 6,791,949) and *Baum et al* (USPN 6,778,525).

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kristie Shingles whose telephone number is 571-272-3888. The examiner can normally be reached on Monday-Friday 8:30-6:00.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on 571-272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kristie Shingles
Examiner
Art Unit 2141

kds


RUPAL DHARIA
SUPERVISORY PATENT EXAMINER